

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

LARRY M. MAYFIELD

§

VS.

§

CIVIL ACTION NO. 9:16cv127

BILLY THOMPSON, ET AL.

§

ORDER PARTIALLY ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Larry M. Mayfield, an inmate at the Lewis Unit, proceeding *pro se*, brought the above-styled lawsuit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed without prejudice.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

The acknowledgment card for the Report mailed to plaintiff was returned to the Court as undeliverable. This Court was notified in another pending civil rights lawsuit filed by plaintiff that plaintiff passed away on April 21, 2018. Suggestion of Death, 9:15cv80 (docket entry no. 20). The Suggestion of Death was filed on May 8, 2018 and more than 90 days have passed since its filing. No motion for substitution has been filed. Pursuant to Federal Rule of Civil Procedure 25(a)(1), this complaint should be dismissed.

ORDER

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED** to the extent it recommended dismissal. A

final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

**So Ordered and Signed**

Jan 9, 2019

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

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Ron Clark, Senior District Judge